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Diane Schweigen

Date: December 5, 2002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Hisatoshi Hirota

Group Art Unit 3746

Serial No.: 09/541,779

Docket No. 133.046

Filed: April 3, 2000

Confirmation No. 4974

For: *Capacity Controller of Capacity Variable Compressor*

SUBSTITUTION OF ATTORNEY

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

I hereby appoint the following attorneys/agents to prosecute the above-identified application and to transact all business in the U.S. Patent and Trademark Office connected therewith:

James H. Patterson, Reg. No. 30,673; John F. Thuent, Reg. No. 29,595; Wm. Larry Alexander, Reg. No. 37,269; Kimberly K. Baxter, Reg. No. 40,504; Eric H. Chadwick, Reg. No. 41,664; Randall T. Skaar, Reg. No. 42,151; Douglas J. Christensen, Reg. No. 35,480; Curtis B. Herbert, Reg. No. 45,443; Michael A. Bondi, Reg. No. 39,616; Paul C. Onderick, Reg. No. 45,354; Brad D. Pedersen, Reg. No. 32,432; Scott G. Ulbrich, Reg. No. 48,005; David A. Olsen, Reg. No. 46,969; Peter S. Dardi, Reg. No. 39,650; Jose W. Jimenez, Reg. No. 31,113; Matthew T. Macari, Reg. No. 50,291; Thomas G. Dickson, Reg. No. 51,616; Bradley J. Thorson, Reg. No. 52,288; Plymouth D. Nelson, Reg. No. 48,172; Julie A. Zavoral, Reg. No. 43,304; and Thaddeus C. Stankowski, Reg. No. 45,522.

SUBSTITUTION OF ATTORNEY

U.S. Serial No. 09/541,779

Inventor: Hirota; Art Unit 3746

Attorney Docket 133.046

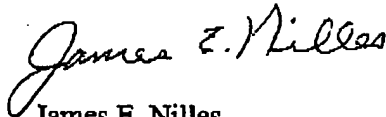
Page 2

Please forward all correspondence to the address listed below:

Patterson, Thuent, Skaar & Christensen, L.L.C.
US Bank Building, Suite 2000
777 East Wisconsin Avenue
Milwaukee, WI 53202
Telephone: 414-276-0977
Facsimile: 414-276-0982

All previous powers of attorney granted in this case are hereby revoked.

Respectfully submitted,



James E. Nilles
Attorney of Record
Registration No. 16,663

Date: December 5, 2002

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*****COMM***** JOURNAL***** DATE JUN-05-02 ***** TIME 12:32 *****

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FILE NO.-359

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Facsimile: 703-308-6916

Pages - 2

Date: June 5, 2002

Diane Schwaiger
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Hisatoshi Hirota

Group Art Unit 3746

Serial No.: 09/541,779

Examiner: T. Solak

Filing Date: April 3, 2000

Docket No. 133.046

For: Capacity Controller of Capacity Variable Compressor

Customer No. 023907

STATUS INQUIRY

Attention: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, DC 20231

Sir:

Applicant respectfully requests the status of the above application and when an action will be issued concerning the documents that were filed in the U.S. Patent Office by facsimile on March 11, 2002. The documents transmitted included:

- 1) Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181(a).
- 2) Preliminary Amendment (seven pages) originally faxed to the U.S. Patent Office on April 30, 2001.
- 3) Fax sheet confirming 007/07 pages of Preliminary Amendment was faxed to the U.S. Patent Office.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Group Art Unit 3746

Serial No.: 09/541,779

Examiner: T. Solak

Filing Date: April 3, 2000

Docket No. 133.046

For: *Capacity Controller of Capacity Variable Compressor*

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Assistant Commissioner for Patents
Box DAC
Washington, DC 20231

Sir:

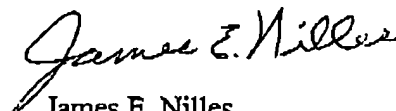
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Serial No. 09/541,779 - Hirota
Art Unit 3746 - Attorney Docket 133.046
Page 2

The Commissioner is hereby authorized to deduct any additional fees arising as a result of this or any other communication from or to credit any overpayments to Deposit Account No. 14-1080.

Respectfully submitted,


James E. Nilles
Registration No. 16,663

Dated: June 5, 2002

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-NILLES NILLES -

***** -NILLES NILLES - ***** 414 276 17982- *****

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FACSIMILE TRANSMITTAL SHEET

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|---|---|---|----------------------------|
| TO: | Office of Petitions | FROM: | James E. Nilles |
| COMPANY: | U.S. Patent Office | DATE: | March 11, 2002 |
| FAX NO.: | 703-308-6916 | PAGES: | 13 (Including cover sheet) |
| RE: | U.S. Ser. No. 09/541,779 Attorney Docket 133.046 | OPERATOR: | Diane Schwaiger |
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Diane Schwaiger

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Hisatoshi Hirota

Group Art Unit 3746

Serial No.: 09/541,779

Examiner: T. Solak

Filing Date: April 3, 2000

Docket No. 133.046

For: *Capacity Controller of Capacity Variable Compressor*

Customer No. 023907

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT
UNDER 37 C.F.R. 1.181(a)

Attention: Office of Petitions
Assistant Commissioner for Patents
Box DAC
Washington, DC 20231

Sir:

In response to the Notice of Abandonment, date February 25, 2002, Applicant requests the withdrawal of the holding of abandonment under 37 C.F.R. 1.181(a). In particular, Applicant asserts the Application was not properly held abandoned.

According to the Notice of Abandonment, the Application is abandoned in view of Applicant's failure to timely file a proper reply to the Office letter mailed on May 9, 2001 because no reply has been received. However, Applicant submits that there is no reply required by the Office letter mailed on May 9, 2001 for at least four reasons. First, there is no Office action requiring a response. Second, the Interview Summary is not a proper Office

FILE RE:US09/541,779
DUE DATE: 11/20/02
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Page 2

communication requiring a response. Third, the comments in the Interview Summary do not affirmatively require a response. Fourth, the only communication possibly requested by the Interview Summary was in fact filed in the U.S. Patent and Trademark Office.

First, there is no Office action requiring a response. More particularly, the Office letter mentioned in the Notice of Abandonment is an Interview Summary. The only possible indication in the Interview Summary of a possible required response is that it does not have box 2(i) checked. The Interview Summary goes on to state that "unless the paragraph above has been checked, the formal written reply to the last Office action must include the substance of the interview... If a reply to the last Office action has already been filed, Applicant is given one month from this interview date to file a statement of the substance of the interview." However, there is no "last Office action" requiring a response. The only communication received regarding any possible examination is the Interview Summary itself. However, as further discussed below, the Interview Summary itself does not require a response. The only mention of a response in the Interview Summary refers to a nonexistent "last Office action." Thus, there is no response required.

Second, the Interview Summary is not a proper Office communication requiring a response. In particular, the Interview Summary fails to comply with MPEP §713.04. More particularly, the Interview Summary expressly states that the form must be signed unless it is an attachment to a signed Office action. The Interview Summary does not contain the signature of the Examiner who conducted the interview. Furthermore, the Interview Summary is not an

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Page 3

attachment to a signed Office action. Accordingly, the Interview Summary is not a proper Office communication requiring a response.

Third, the comments in the Interview Summary do not affirmatively require a response. The comments only mention the substance of a telephonic communication on April 27, 2001. The comments only state Applicant was informed, "claims 1-3 were narrative in nature and lacked structure and (method) claims 8-9 lacked steps" and that Applicant informed the Examiner "he would fax a pre-amendment." Thus, the Interview Summary only stated information conveyed to Applicant and it only further stated Applicant's intentions. The Interview Summary did not state a requirement for a response. Therefore, the Interview Summary did not require a response.

Fourth, Applicant submits that the only communication possibly requested by the Interview Summary was in fact filed in the U.S. Patent and Trademark Office. In particular, the enclosed Preliminary Amendment noted in the Interview Summary was in fact filed on April 30, 2001. The Preliminary Amendment did in fact include the substance of the telephonic communication on April 27, 2001. Furthermore, the Preliminary Amendment contains a Certificate of Facsimile signed by Angela M. Weinstock certifying that the Preliminary Amendment was sent by facsimile to Examiner T. Solak at telephone number 703-308-7763 on April 30, 2001. Additionally, Applicant encloses the Facsimile Confirmation Transmission confirming receipt of the facsimile transmission including 7 pages at telephone number 703-308-7763 on April 30, 2001. Thus, the Preliminary Amendment noted in the Interview Summary was in fact filed in the U.S. Patent and Trademark Office. Accordingly, the only communication

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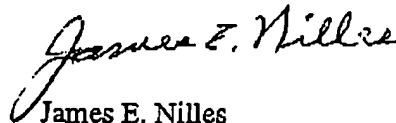
possibly requested by the Interview Summary was in fact filed in the U.S. Patent and Trademark Office.

Thus, the Application was not properly held abandoned. Accordingly, Applicant requests the withdrawal of the holding of abandonment.

Should the Examiner have any further questions or comments, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

The Commissioner is hereby authorized to deduct any additional fees arising as a result of this or any other communication from or to credit any overpayments to Deposit Account No. 14-1080.

Respectfully submitted,



James E. Nilles
Registration No. 16,663

Dated: March 11, 2002

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|---|---|---|---------------------------------------|
| TO: | Examiner T. Solak | FROM: | James E. Nilles |
| COMPANY: | US Patent and Trademark Office | DATE: | April 30, 2001 |
| FAX NO.: | 703.308.7763 | PAGES: | 7 (Including Cover Sheet) |
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